

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

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Robert A. Bloomer, Jr. )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
U.S. Department of Homeland Security )  
 )  
Defendant. )

COMPLAINT

2:11-CV-35

**PARTIES**

1. Plaintiff is Robert A. Bloomer, Jr., 4732 Vt. Route 22A, Addison, Vermont 05491.
2. Defendant is the United States Department of Homeland Security, 425 I Street NW, Washington, DC 20536 and its components United States Citizenship and Immigration Services (formerly Immigration and Naturalization Service) and United States Immigration and Customs Enforcement.

**JURISDICTION**

3. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and also 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

**COMPLAINT**

4. This is an action under the Freedom of Information Act, 5 U.S.C. § 552 seeking the disclosure and release of agency records improperly withheld from plaintiff by defendant Department of Homeland Security and its components Citizenship and Immigration Services (USCIS) and Immigration and Customs Enforcement (ICE).
5. By separate letters of December 2, 2006 and December 4, 2006 to USCIS and ICE respectively plaintiff requested "All records pertaining to ... [Jose Carlos Chavez Vernaza], specifically to include all documents relating to his deportation following imprisonment."
6. The subject of plaintiff's request, Jose Carlos Chavez Vernaza, was a citizen of Peru and a federal prisoner, Register Number 53979-065, who was released on or about June 29, 1992. Mr. Chavez died in May, 2003.

**Citizenship and Immigration Services' Failure to Comply with Plaintiff's Request**

7. By letter of May 15, 2007 USCIS sent documents in response to plaintiff's request. One hundred seventy-eight pages were withheld in their entirety with no indication of what they contained.

8. Plaintiff appealed by letter of July 9, 2007 noting that "the 'Notice of Country to which Deportation has been directed' indicates that Mr. Chavez was to be deported to 'Chile, or in the alternative to Peru' ...Chavez was a citizen of Peru, and nothing in the documents I have been given explains why he would be deported to Chile...Moreover, according to Mexican sources Chavez took up residence in neither Chile nor Peru, but in Mexico...I therefore request any and all documents that would shed any light on why Mr. Chavez was not deported to Peru..."

9. Additional documents were released by USCIS more than two years later by letter of December 4, 2009. None of the documents in the release provided any information as to why Mr. Chavez was not deported to Peru, and none showed the country to which Mr. Chavez was actually deported.

10. Among the materials withheld were the transcript of the hearing before the Immigration Judge, whether in paper or electronic form, and at least one exhibit in that proceeding.

11. Plaintiff has exhausted his administrative remedies regarding USCIS. The final sentence of its letter of December 4 states: "If you are dissatisfied with our action on your appeal, you may seek judicial review in accordance with 5 U.S.C. § 552 (a)(4)(B)."

**Immigration and Customs Enforcement's Failure to Comply with Plaintiff's Request**

12. By letter of June 25, 2007 ICE advised plaintiff that "...it has been determined that the records [you requested] would come within the jurisdiction of the U.S. Citizenship and Immigration Services...We have forwarded your request to that office for consideration and reply directly to you."

13. Plaintiff appealed the ICE decision to provide nothing in response to his request by letter of July 9, 2007 stating that the "request obviously applies to documents that could reasonably be expected to be in the possession of ICE...At the very least I would think ICE has a copy of the Order of Deportation, as well [as] paperwork from the country receiving the deportee, in this case Mr. Chavez ... The fact that it's taken more than six months and two inquiries to determine that ICE doesn't have 'jurisdiction' over its own documents leads me to question whether it's operating in good faith."

14. Plaintiff heard nothing further from ICE.

15. ICE's referral of plaintiff's request to USCIS did not produce the materials plaintiff requested. Plaintiff has exhausted his administrative remedies as to ICE.


**RELIEF**

WHEREFORE, plaintiff prays that this Court:

- A. order the defendants to disclose the requested records in their entireties and make copies available to plaintiff;
- B. award plaintiff his costs incurred in this action; and
- C. grant such other relief as the Court may deem just and proper.

Respectfully submitted,

Dated: February 7, 2011

  
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